## REMARKS

Reconsideration of all grounds of rejection and allowance of the pending claims, as respectfully requested with regard to the above amendments and the following remarks. Claims 1-26, as amended, remain pending herein.

**Summary of the Rejections**:

There are a total of 26 claims pending in the non-final Office Action, all of which have been again rejected by the Examiner.

(1) Claims 1-26 stand rejected under 35 U.S.C.§112, second paragraph.

(2) Claims 1-8 stand rejected under 35 U.S.C.§103(a) over Eriksson et al. (U.S. 6,385,449, hereafter "Eriksson" in view of Nagarajan et al. (U.S. 5,884,174, hereafter "Nagarajan").

**Office Action Grounds of Rejection**:

The Examiner alleges that with regard to claims 1,5,9,13 17 and 22 the recited phrase " particular cell of the plurality of cells adaptively adjusts the admission threshold for determining mobile station adaptively adjusts the admission threshold for determining whether to admit or drop a handoff call requested for "a cell adjacent to one of the cells in communication with the mobile station" allegedly is indefinite language.

**Applicant's Traversal**:

35 U.S.C. §112:

Applicants have amended claims 1,5,9,13,17 and 22 to clarify the claimed invention by substituting the rejected phrase with reciting that **a cell adjacent to the particular cell in communication with the mobile station**".

It is respectively submitted that all of the base claims, which now have recitations in conformity with the above, are also definite and overcome all grounds of rejection 35 U.S.C§112; and all of the claims dependent thereon are also overcome rejection.

Claims 1-8 under 35 U.S.C.§103(a) over Eriksson and Nagarajan:

It is respectfully submitted that a person of ordinary skill in the art would not have found any of the instant claims to be obvious at the time of invention over the combination of Eriksson and Nagarajan.

The combination of references does not disclose, suggest, or motivate an artisan such that the instantly claimed invention would have been obvious to the artisan in view of the combination.

Applicants respectfully submit that an careful analysis of the combination of references provides that the teachings of Eriksson permit fewer unsuccessful new call connections at the expense of increasing the risk of dropping existing calls and decreasing their Qos.

On one hand, Nagarajan discloses a call admission method that uses a prior art "reserve system" that reserves a threshold of calls for handoffs by rejecting new calls in accordance with a probability value. Although Nagarajan uses an algorithm to calculate the probability of call patterns, this system is not very different from the reserve system. Also, Nagarajan does not disclose that an admission threshold is dynamically adjusted based on handoff drop events.

On the other hand, Eriksson discloses a system and method used in a mobile telecommunications network for load balancing of calls between different base station controllers. This reference discloses the "balancing" or "shifting" of calls between base stations without the particular base station associated with a particular cell making a handoff request. Eriksson discloses the use of a load indication message that is broadcast out among the different BSC's, where it is then determined whether a call or calls should be shifted from one BSC to another. Clearly, Eriksson's teachings are contrary to the premise of

the instantly claimed invention that existing calls are paramount, or the reference wouldn't propose to risk the Qos and increase the likelihood of dropped existing calls by shifting them to other base stations that may be of lesser signal strength and quality.

In addition, Eriksson discloses at column 3, lines 39-50 that the reasons for ordering a handover associated with load balancing is not to be confused with the traditional handover associated with a moving mobile terminal 245. For example, the traditional handover would be completed when the mobile terminal 245 travels from the cell 100b to the cell 100f, and the ongoing call is transferred to the cell 100f as the mobile terminal enters 100f. Notably, the load balancing handover of the present invention may be completed even though the mobile terminal remains within the cell 100b.

Applicants respectfully submit that the shifting of calls to different cells even though the mobile terminal has not changed the cell in which it is located introduces Quality of Service of issues, and the teachings of the Eriksson reference are completely contrary to the instantly claimed invention.

Therefore, Applicants respectfully submit that the teachings of the Eriksson and Nagarajan references are not combinable as they are incongruent. Assuming *arguendo,* that an artisan attempted to combine the teachings of the combination, it would not disclose, suggest, or motivate an artsian to provide the claimed invention.

Furthermore, it should also be noted that Nagarajan fails to disclose that the admission threshold is dynamically adjusted based on handoff drop events. Nagarajan is based on the mobility of the respective calls, rather than the handoff drop events of each cell, and provides thresholds as such.

In contrast, the presently claimed invention seeks to provide and apparatus and method to keep a handoff dropping probability below a predefined level, and in general it is the strongest signal strength (and thus closest) base station that communicates with a mobile telephone, and unnecessary shifting may first cause a call to be lost. While the presently claimed invention operates on the premise that a lost call

is the most undesirable of Qos issues, Eriksson discloses a method that may well decrease the signal strength and expose the call to unnecessary risk of being dropped by shifting the call to a base station having a weaker signal and increase the probability that a call could be lost. Eriksson is disclosing a method that decreases Qos and increases the risk of dropped calls, as any time a call is handed off to another BSC there is a possibility that it could dropped. Thus, the combination of references fails to suggest all of the elements in the instantly claimed invention.

Thus, it is respectfully submitted that all grounds of rejection have been overcome. Applicants note that with respect to a rejection under 35 U.S.C.§103(a), the Court of Appeals for the Federal Circuit provides guidance by their holding that:

> Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined *only* if there is some suggestion or incentive to do so. Although couched in terms of combining teachings found in the prior art, the same inquiry must be carried out in the context of a purported obvious "modification" of the prior art. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.

*In re Fritch*, 972 F.2d 1260, 1266, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992).

In the present application, the combination of reference fails to disclose or suggest the desirability of the modification, as the desirability comes from the instant claims, not anything found in the combination of references. Reconsideration and withdrawal of all grounds of rejection are respectfully requested.

Should the Examiner deem that there are any issues which may be best resolved by telephone, please contact Applicant's undersigned representative at the number listed below. If there are any fees due and owing, please charge Deposit Account No. 502-470.

Respectfully submitted,

Date: September 5, 2003

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the COMMISSIONER FOR PATENTS, Mail Stop NON-FEE AMENDMENT, P.O. Box 1450, ALEXANDRIA, Virginia 22313 on September 5, 2003.

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(Name of Registered Representative)

9/5/03
(Signature and Date)